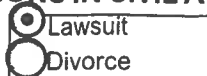


(CIRCUIT/CHANCERY) COURT OF TENNESSEE  
140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

## SUMMONS IN CIVIL ACTION

Docket No.

CT-0525-21



Ad Damnum \$ 118,527.38

BELLSOUTH TELECOMMUNICATIONS,  
INC. D/B/A AT&T(TN)

VS

DEMENT CONSTRUCTION COMPANY,  
INC.

Plaintiff(s)

SHELBY COUNTY SHERIFF'S OFFICE  
201 POPLAR AVENUE  
MEMPHIS, TN 38103

Defendant(s)

TO: (Name and Address of Defendant (One defendant per summons))

DEMENT CONSTRUCTION COMPANY, INC. C/O REGISTERED  
AGENT JAMES B. SUMMERS 80 MONROE AVENUE SUITE 650  
MEMPHIS TN 38103

Method of Service:

- ☐ Certified Mail  
☒ Shelby County Sheriff  
☐ Commissioner of Insurance (\$)  
☐ Secretary of State (\$)  
☐ Other TN County Sheriff (\$)  
☐ Private Process Server  
☐ Other

(\$ Attach Required Fees)

You are hereby summoned and required to defend a civil action by filing your answer with the Clerk of the Court and

serving a copy of your answer to the Complaint on MARK B REAGAN

Plaintiff's

attorney, whose address is 7872 HWY 100 NASHVILLE, TN 37221

telephone 615-544-0455

within THIRTY (30) DAYS after this summons has been served upon you, not including the day of service. If you fail to do so, a judgment by default may be taken against you for the relief demanded in the Complaint.

TEMIKA D. GIPSON, Clerk / W. AARON HALL, Clerk and Master

TESTED AND ISSUED

2/5/21

By

, D.C.

TO THE DEFENDANT:

NOTICE; Pursuant to Chapter 919 of the Public Acts of 1980, you are hereby given the following notice:

Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed. These include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

FOR AMERICANS WITH DISABILITIES ACT (ADA) ASSISTANCE ONLY, CALL (901) 222-2341

I, TEMIKA D. GIPSON / W. AARON HALL, Clerk of the Court, Shelby County, Tennessee, certify this to be a true and accurate copy as filed this

20\_\_

TEMIKA D. GIPSON, Clerk / W. AARON HALL, Clerk and Master

By: \_\_\_\_\_, D.C.

Exhibit A

RETURN OF SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE SERVED THE WITHIN SUMMONS:

By delivering on the 1<sup>st</sup> day of March, 2021 at 9<sup>50</sup> A M. a copy of the summons

and a copy of the Complaint to the following Defendant \_\_\_\_\_

at \_\_\_\_\_

Kathy Stocks Assistant to James B. Summers Esq. By: C Nelson 0705  
Signature of person accepting service Sheriff or other authorized person to serve process

RETURN OF NON-SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE NOT SERVED THE WITHIN SUMMONS:

To the named Defendant \_\_\_\_\_

because \_\_\_\_\_ is (are) not to be found in this County after diligent search and inquiry for the following

reason(s): \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process

IN THE CIRCUIT COURT FOR SHELBY COUNTY TENNESSEE

Bellsouth Telecommunications, Inc.  
d/b/a AT&T (TN)

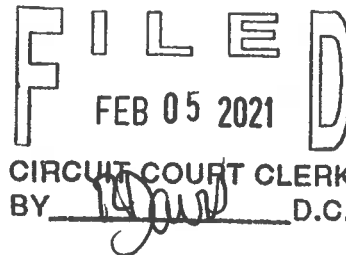
Plaintiff

Vs.

DEMENT CONSTRUCTION  
COMPANY, LLC

Defendant

Case No. CT-0525-21  
Div. 4



**COMPLAINT FOR DAMAGES**

Now comes the plaintiff, BellSouth Telecommunications, Inc, d/b/a ATT TN hereinafter (AT&T) through counsel and for its complaint against the defendant Dement Construction Company, LLC and respectfully submits the following complaint for damages to AT&T's utility facilities located at 2080 East Brooks Road Memphis, TN.

**THE PARTIES**

AT&T is a Georgia corporation qualified to conduct business in the State of Tennessee. It is an incumbent local exchange telephone company as defined by T.C.A. 65-4-101(d) providing telecommunication, data and internet services throughout the state of Tennessee.

Defendant Dement Construction Company, LLC is a Tennessee Limited Liability Company whose principal place of business is 96 Smith Lane in Jackson Tennessee. It may be served with process through its registered agent at Allen, Summers, Simpson, Lillie & Gresham PLLC at 80 Monroe Avenue Suite 650 Memphis, Tennessee 38103.

### **JURISDICTION AND VENUE**

This court has jurisdiction over the Defendant in that Defendant is a Tennessee entity. Venue is appropriate because the events giving rise to AT&T's complaint occurred in Shelby County, TN.

### **FACTUAL BACKGROUND**

AT&T maintains buried utility facilities located at 2080 East Brooks road in Memphis, Tennessee. On or about September 21<sup>st</sup>, 2018, Defendant was excavating in this area as defined by TCA 65-31-101. Defendant did not request the location of any buried utility facilities that might be affected by its excavation in violation of TCA 65-31-101. During the course of its excavation, Defendant struck and damaged AT&T' utility facilities causing damage and adversely affecting business and residential customers that AT&T is obligated to serve in accordance with the regulations and tariffs imposed by state and federal law. AT&T, at its own expense was required to repair the damaged facilities and restore service to its affected customers at a cost of \$118,527.38. (see attached affidavit).

### **NEGLIGENCE PER SE**

**1.** The defendant was negligent per se in that it failed to:

- (a) Call for the location of any buried utility facilities prior to commencing excavations in violation of TCA 65-31-101 et seq.
- (b) Plan the excavation or demolition in order to avoid damage to and minimize interference with the underground utilities in and near the construction area.
- (c) Maintain a clearance between the underground utility and the cutting edge or point of the mechanized equipment in accordance with TCA 65 -31-108 (c).
- (d) Ascertain for itself the exact depth of AT&T's cable as required by TCA 65-31-108 (f).
- (e) Provide support and protection for underground utilities in and near the construction area, including during backfill operations as may have been necessary for the protection of plaintiff's utilities in accordance with TCA 65-31-101 et seq.

The defendant statutory violations constitute negligence per se and where the direct and proximate cause of AT&T's damages.

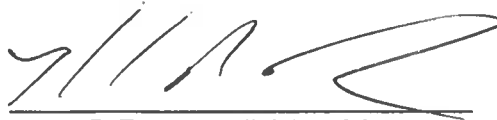
**2.** As a result of the defendant's negligence, utility facilities owned and operated by AT&T were seriously damaged. Telephone service to residents and businesses in the area that AT&T is legally obligated to provide under the regulations and tariffs of the Tennessee regulatory authority was disrupted, leaving residential and business customers without telephone service and thereby adversely affecting the revenues and service of AT&T and its customers.

7. AT&T, at its own expense, subsequently repaired the utility facility damaged by defendant and restored service to its affected residential and business customers at a cost of \$118,527.38.

**WHEREFORE**, and for all of which AT&T respectfully request the following relief:

That it be awarded a judgment against defendant in the amount of \$118,527.38, together with prejudgment interest and the cost of this action and that AT&T be awarded such further general relief as this court may deem appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M B Reagan', with a long horizontal flourish extending to the right.

Mark B Reagan # 017530  
Attorney for Plaintiff AT&T  
7872 HWY 100 Nashville, TN  
37221.  
T 615-544-0455  
M 615-554-0642